

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12873 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

ABDULLA HASAM

Versus

DEPUTY SECRETARY (APPEALS)

Appearance:

1. Special Civil Application No. 12873 of 2004
MR BAIJU JOSHI for Petitioner No. 1-6
NOTICE SERVED BY DS for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 12/10/2004

ORAL JUDGEMENT

Rule. Ms.Archana Raval, Ld. AGP waives service of
rule on behalf of the respondents. With the consent of
the parties, the matter is taken up for final hearing

today.

2. In this petition under Article 226 of the Constitution of India, the petitioners have challenged the legality and validity of the order passed by the Appellate Authority - Deputy Secretary (Appeals), Agriculture and Cooperative Department, State of Gujarat, Gandhinagar dated 30.9.2004 passed in Appeal No.14 of 1004 in vacating the adinterim relief granted earlier.

3. It appears that being aggrieved and dissatisfied with the order passed by the District Registrar, Jamnagar under Section 81 of the Gujarat Cooperative Societies Act in superceding the Managing Committee of the society and to appoint the Administrator, the petitioners have preferred Appeal No.123 of 2003 before the Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar. In the said appeal, the petitioners had preferred an application for interim relief. However, no order was passed on the stay application and only notice was issued and therefore, the petitioners preferred Revision Application before the State Government being Revision Application No.14 of 2004. The Revisional Authority initially granted the order of status quo and the hearing was fixed on 30.9.2004. It appears that due to some reason, the Learned Advocate appearing for the petitioners could not remain present and an application for adjournment was submitted and instead of granting adjournment, the Revisional Authority - State Government had vacated the order of status quo granted earlier by order dated 16.9.2004. Being aggrieved and dissatisfied by the same, the petitioners have preferred the present petition under Article 226/227 of the Constitution of India.

4. This Court had issued notices in the present petition on 5.10.2004 and passed an order of maintaining status quo as on 5.10.2004 which is continued till date. It is an admitted position that the appeal preferred by the petitioners is pending before the Additional Registrar (Appeals), and the interim application is also pending before the Appellate Authority. In that view of the matter, the Appellate Authority i.e. Additional Registrar (Appeals), Cooperative Societies, State of Gujarat, Gandhinagar is directed to decide and dispose of the stay application submitted by the petitioners in the appeal in which the petitioners have challenged the order passed by the District Registrar, Jamnagar dated 21.7.2004 in accordance with law and on merits. The Appellate Authority i.e. Additional Registrar (Appeals), Cooperative Societies, State of Gujarat is directed to

decide and dispose of the stay application within a period of three weeks from the date of receipt of this order and till then the order of status quo granted by this Court on 5.10.2003 is directed to be continued. It is directed that the Appellate Authority should pass an appropriate order on the stay application in accordance with law and on merits and in any way, without being influenced by the fact that this Court has granted the order of status quo and has continued till the hearing of the stay application. At this stage, Shri Shirish Joshi, Learned Advocate for the petitioners had submitted that as this Court has directed the Appellate Authority to decide and dispose of the stay application in accordance with law and on merits, the revision applications filed before the State Government which was filed against the non-granting of the interim relief in the appeal would not survive and therefore, he will withdraw the same. It is also made clear that this Court has not gone into the validity of the order passed by the District Registrar on merits and has not expressed anything on merits of the case. Rule is made absolute to the aforesaid extent with no order as to costs. Direct Service is permitted.

(M.R.Shah, J)

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